The opinion in support of the decision being entered today was <u>not</u> written for publication and is <u>not</u> binding precedent of the Board.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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<u>Ex parte</u> SCOTT HARLAN ISENSEE,
RICKEY LEE POSTON,
and I-HSING TSAO

_____

Appeal No. 2002-1771
Application 09/204,914[1]

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ON BRIEF

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Before BARRETT, FLEMING, and SAADAT, <u>Administrative Patent Judges</u>.

BARRETT, <u>Administrative Patent Judge</u>.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) from the final rejection of claims 1, 3-9, 11-17, and 19-24.

We reverse.

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[1] Application for patent filed December 3, 1998, entitled "File Manager System Providing Faster and More Efficient Interactive User Access to Files in Computer Displays."

BACKGROUND

The invention relates to a computer controlled user-interactive display operation. The user interactivity with objects representing files is monitored and a selected set of high interactivity objects is displayed separate from but simultaneously with the objects representing the files, as shown in Fig. 3. In this manner, the user is presented with a much smaller number of file objects upon startup based upon past activity.

Claim 1 is reproduced below.

1. In a computer controlled user-interactive display operation, a system for providing user access to files stored in the operation comprising:

    means for displaying on a display screen, a plurality of interactive objects, respectively representative of substantially all of the files in the operation,

    means for monitoring user interactivity with respect to said interactive objects,

    means responsive to said monitoring means for selecting a set of high interactivity objects having user interactivity greater than selected levels, and

    means for displaying on said display screen, said set of high interactivity objects separate from but simultaneously with said displayed plurality of objects.

The examiner relies on the following reference:

Siefert et al. (Siefert)   5,726,688   March 10, 1998

Claims 1, 3-9, 11-17, and 19-24 stand rejected under

35 U.S.C. § 102(e) as being anticipated by Siefert.

We refer to the final rejection (Paper No. 5) and the

examiner's answer (Paper No. 11) (pages referred to as "EA__")

for a statement of the examiner's rejection, and to the brief

(Paper No. 10) (pages referred to as "Br__") and reply brief

(Paper No. 12) (pages referred to as "RBr__") for a statement of

appellants' arguments thereagainst.

OPINION

The claims are grouped to stand or fall together (Br3).

Claim 1 is selected as representative.

The examiner's position is best stated as follows (EA6):

> In brief, the Examiner equates "the plurality of interactive
> objects representative of substantially all of the files in
> the operation" to options of choosing POINT, LINE, CIRCLE,
> ELLIPSE, BOX, TEXT of Figure 3 of Siefert. The claimed set
> of high interactivity objects is met by the proposed
> "CENTER & RADIUS" once the user chooses "CIRCLE." Clearly,
> once the CIRCLE option is selected, the set of high
> interactivity objects of CENTER & RADIUS is displayed
> separate from but simultaneously with the displayed
> plurality of interactive objects of POINT, LINE, CIRCLE,
> ELLIPSE, BOX[,] TEXT representing substantially all of the
> files in the operation of the DRAW operation.

Initially, although not argued by appellants, we find that

while the menu items POINT, LINE, ... TEXT on menu 3 and menu

items CENTER & RADIUS, TWO POINTS (DIAMETER), THREE POINTS on

menu 6 are "interactive objects," they are not representative of

"files," much less "representative of substantially all the files

in the operation" in claim 1. A "file" is defined as: "A
collection of bytes stored as an individual entity. All data on
disk is stored as a file with an assigned file name that is
unique within the folder (directory) it resides in."
TechEncyclopedia at http://www.techweb.com/encyclopedia. Thus, a
file object and a directory object would both be "representative"
of a file. The menu items in Siefert are representative of
drawing functions, <u>not</u> files. Thus, initially we find that
Siefert does not teach "a plurality of interactive objects,
respectively representative of substantially all the files in the
operation." Nevertheless, we address the address the examiner's
rejection assuming the "files" limitation is met by a menu item.

Appellants argue (Br4-5) that Siefert does not disclose
"displaying on said display screen, said set of high
interactivity objects separate from but simultaneously with said
displayed plurality of objects [representing all the files in the
operation]." It is argued that "[i]n <u>Siefert, it is not the
POINT, LINE,... TEXT menu that is monitored</u>, and <u>CENTER & RADIUS
OBJECT 6B is not selected in response to monitoring</u> of the
activity of the objects in the <u>POINT, LINE,... TEXT</u> menu" (Br5).
It is argued (Br5): "Thus if the Examiner's argument were to have
any validity, then the selected object 6B of Fig. 3 would have
had to have been displayed simultaneously but separate from

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menu 6 of Fig. 2. Since this is clearly not the case, there is
not even a suggestion of the present claimed invention."

The examiner responds (EA5): "CENTER & RADIUS is clearly
selected in response to monitoring user interactivity with the
CIRCLE object displayed on the screen of Figure 3 in Siefert (see
column 2, line 59- column 3, line 5). Note that claim 1 does not
require the set of high interactivity objects to be exclusively
selected from the initial set of interactive objects displayed."
(Emphasis added.)

Appellants dispute the underlined statement by the examiner,
arguing that "since the initial plurality of displayed
interactive objects are monitored for high activity, and the set
of high activity objects are selected in response to said
monitoring, then the selected set of high activity objects must
come from the initial plurality being monitored" (RBr2).

We agree with appellants' claim interpretation, although
this does not appear to be what is shown in appellants' drawings,
i.e., none of the high activity files in window 54 in Fig. 3 are
displayed simultaneously in the underlying windows at levels 50,
51, 52, and 55. The "high activity files" in Fig. 3 are also
depicted using Windows™ folder (directory) icons instead of file
icons, which is a little confusing. While it seems that an
"interactive object" which is "representative" of a file could be
a folder (a directory or subdirectory) representative of the

files contained therein, as well as a file itself, claim 1 requires the displayed "high interactivity objects" to be from the "displayed plurality of objects." Claim 1, as drafted, does not appear to permit a "file" to be displayed as a "high interactivity object" while the directory that contains the file is what is displayed separately. We point out this claim interpretation in case it is not what appellants intend.

Based on the proper claim interpretation, we agree with appellants that the CENTER & RADIUS item cannot be "high interactivity objects [displayed] separate from but simultaneously with said displayed plurality of objects" because the CENTER & RADIUS item is not one of the "plurality of interactive objects" which is monitored. The examiner errs in finding that the CENTER & RADIUS item is a high interactivity object selected in response to monitoring user interactivity with the CIRCLE object. The CENTER & RADIUS item in Fig. 3 is clearly a high interactivity object selected in response to monitoring user interactivity with the menu items CENTER & RADIUS, TWO POINTS (DIAMETER), THREE POINTS on menu 6 (col. 2, line 59 to col. 3, line 5), not with respect to the CIRCLE object as stated by the examiner. The CENTER & RADIUS high interactivity is not displayed separate from but simultaneously with the menu items of menu 6; only the CENTER & RADIUS object is shown with the other objects concealed by the FULL MENU button.

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Although not relied on by the examiner, Fig. 5 of Siefert comes close to meeting the simultaneous display limitation. The top embodiment shows high activity objects (menu items LINE and CIRCLE) displayed separate from and simultaneously with objects representing the other menu items, unlike the lower embodiment in which the objects representing other menu items are hidden under the MORE? option. However, claim 1 requires the separate but simultaneously displayed "plurality of objects" to include all of the objects which is not shown in Fig. 5. That is, the selected high activity objects (LINE and CIRCLE) would have to be displayed separately from the menu 6, not just emphasized within the menu, to meet claim 1. This is not taught.

For the reasons stated above, we find that claim 1 is not anticipated by Siefert. The rejection of claims 1, 3-9, 11-17, and 19-24 is reversed.

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<u>REVERSED</u>

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LEE E. BARRETT	)	
Administrative Patent Judge	)	
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	)	
	)	BOARD OF PATENT
MICHAEL R. FLEMING	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
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MAHSHID D. SAADAT	)	
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